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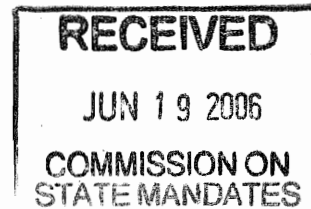
Auditor/Controller-Recorder
County Clerk

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June 15, 2006

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



And Other Interested Parties (See Mailing List)

RE: Request To Amend Parameters And Guidelines By The County Of San Bernardino

Peace Officers Procedural Bill Of Rights (POBOR)

Government Code Sections 3300 through 3310

As added and Amended by Statutes of 1976, Chapter 465;

Statutes of 1978, Chapters 775, 1173, 1174, and 1178;

Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982,

Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165;

Statutes of 1990, Chapter 675

Reconsideration Directed by Government Code Section 3313

(Stats. 2005, ch. 72 § 6 (Assem. Bill (AB) No. 138), eff. July 19, 2005

Dear Ms. Higashi:

The County of San Bernardino hereby requests that the Parameters and Guidelines adopted by the Commission on State Mandates for the above entitled matter on July 27, 2000 be amended as provided in the attached proposed parameters and guidelines.

The County's reasons for submitting this request at this time are two-fold: 1) The Commission's direction to staff to form a committee to meet and work on a Reasonable Reimbursement Methodology, and 2) The POBOR audit that is currently being performed in the County.

The County is very supportive of any effort to simplify the claiming process for POBOR and as such, we have incorporated in this proposed amendment, two alternatives for reimbursement: A Reasonable Reimbursement Methodology and Actual Costs.

Reasonable Reimbursement Method (RRM)

Mr. Steve Keil, Director of Legislative Services for the California State Association of Counties (CSAC) submitted a proposed methodology to the Commission on May 24, 2006. The essence of the proposal is a unit cost based on the size of the police force. The calculation as presented is \$528 for each officer employed by the agency on January 1 of the claim year. The dollar figure would be adjusted annually by

the implicit price deflator. The initial 528 dollar figure is based on data analysis done by a representative of the CSAC-LCC SB90 Committee using data provided by the Controller's Office. (Attachment A)

In discussions surrounding the RRM approach, the State Controller's Office (SCO) expressed concern in clarifying the reimbursable activities prior to settling on a unit amount. Our office would agree. It has become painstakingly evident that there is a disparity in the understanding of allowable costs. This is evidenced as well, in the 'Proposed Amendments to Parameters and Guidelines, Peace Officers Procedural Bill of Rights' submitted by the State Controller's Office on May 5, 2005. While the County has incorporated some of the boilerplate language that the SCO has submitted, I, as representative for the County, would take issue with the amount of detail that is described in regards to disallowances. I would also submit that the additional tracking and reporting requirements as submitted, in particular Section V CLAIM PREPARATION, I. Salaries and Benefits go beyond 'reasonable' documentation, would require additional local agency administrative time and effort, and do nothing to support the POBOR legislative intent of stable employer-employee relations between public safety employees and their employers.. (Attachment B) Additional issues with clarification of costs will be addressed with the Actual Cost Methodology.

Actual Cost Method

To be eligible for mandated cost reimbursement for any given fiscal year, actual costs are claimed. Actual costs are those costs incurred to implement the mandated activities. Actual costs must be traceable and supported by documents that show the validity of such costs, when they were incurred, and the relationship to the reimbursable activities. This is standardized practice for the SB90 program. However, the POBOR claim is not as straight forward as other claims. There is the issue of personnel and investigative confidentiality. Some information cannot be openly reviewed by auditors and/or placed in logs due to the sensitive nature of the issues. There is the issue of pre-existing requirements for due process and how to track and separate what is truly POBOR from other personnel requirements. Finally, there is the issue of time; what is reasonable for claiming purposes and/or truly required to address the POBOR issues at hand. These issues really speak to the issue of developing an RRM. However, our current claiming process is actual cost and from the County's standpoint, the biggest issue of disparity is Section IV Reimbursable Activities, C. Interrogations. In the conclusion of the Statement of Decision, adopted November 30, 1999, it reads in part:

"Based on the foregoing analysis, the Commission concluded that the test claim legislation constitutes a partial reimbursable state mandated program pursuant to article XIII B, section 6 of the California Constitution for the following reimbursable activities:

- 1)
- 2) *Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)"*

That statement is very clear. When discussing our audit disallowance 'for regular time' as opposed to overtime with the auditor, I was directed to the Parameters and Guidelines which read in part:

C. Interrogations

Claimants are eligible for reimbursement for the performance of the activities listed in this section only when a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion,

suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)

Claimants are not eligible for reimbursement for the activities listed in this section when an interrogation of a peace officer is in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer. Claimants are also not eligible for reimbursement when the investigation is concerned solely and directly with alleged criminal activities. (Gov. Code, § 3303, subd. (i).)

1. When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

When I questioned the Statement of Decision, I was directed to the section Compensation and Timing of an Interrogation. The portion referenced to me reads similarly:

Government Code section 3303 describes the procedures for the interrogation of a peace officer. The procedures and rights given to peace officers under section 3303 do not apply to any interrogation in the normal course of duty, counseling, instruction, or informal verbal admonition by a supervisor. In addition, the requirements do not apply to an investigation concerned solely and directly with alleged criminal activities.

Government Code section 3303, subdivision (a), establishes procedures for the timing and compensation of a peace officer subject to investigation and interrogation by an employer. This section requires that the interrogation be conducted at a reasonable hour, preferably at a time when the peace officer is on duty, or during the "normal waking hours" of the peace officer, unless the seriousness of the investigation requires otherwise. *IF* the interrogation takes place during the off-duty time of the peace officer, the peace officer "shall" be compensated for the off-duty time in accordance with regular department procedures. (Emphasis added)

However, in that same section, two paragraphs later it reads: "Conducting the investigation when the peace officer is on duty, and compensating the peace officer for off-duty time in accordance with regular department procedures are new requirements not previously imposed on local agencies and school districts."

In the proposed amendment submitted by the SCO, referenced earlier in this document, Section 'X. Legal and Factual Basis for the Parameters and Guidelines' states:

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

The Statement of Decision is very clear. I reviewed the hearing transcripts for both the Statement of Decision and the Parameters and Guidelines phases. There was discussion addressing tape recording, legal defense and punitive transfer. Compensation for 'time' was not discussed.

As part of the staff analysis, in the section under the heading 'Section IV. (C) (1) and (2), Compensation and Timing of an Interrogation, Interrogation Notice,' there is a discussion on the claimant's proposed activity "to review the necessity for the questioning and responses given." The discussion concludes with

staff finding that the activity to review the necessity for the questioning and responses given is too broad and goes beyond the scope of Government Code section 3303, subdivision (a), and the Commission's Statement of Decision.

The following paragraph is at issue. It reads:

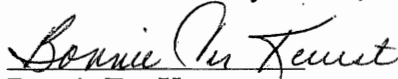
Government Code section 3303, subdivision (a), addresses only the compensation and timing of the interrogation. It does not require local agencies to investigate an allegation, prepare for the interrogation, conduct the interrogation, and review the responses given by the officers and/or witnesses, as implied by the claimant's proposed language.

Based on this statement, the parameters and guidelines were reworded to exclude everything originally put forth except for compensation for off-duty time. I would submit in argument that the parameters and guidelines were reworded in error based on the following:

- Government Code 3303 states "...the interrogation shall be conducted under the following conditions....." It assumes action. The government code goes on to describe the requirements, processes and officer rights inherent in the interrogation; and the Commission's regulations allow the Commission to include as reimbursable activity any activity that is reasonably necessary to comply with the mandate.
- The Statement of Decision is very clear: Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for off-duty time in accordance with regular department procedures is a reimbursable activity pursuant to article XIII B, section 6 of the California Constitution.
- As put forth by the SCO: The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines.

Accordingly, on the basis of the foregoing, the attached Proposed Amendments to the Parameters and Guidelines are submitted for consideration. We respectfully request that they be adopted before the Commission in an expedited manner to avoid further cost and delay.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is executed this 15th day of June, 2006 in San Bernardino, California.



Bonnie Ter Keurst
Manager, Reimbursable Projects
County of San Bernardino

PARAMETERS AND GUIDELINES

Government Code Sections 3300 through 3310

As added and Amended by Statutes of 1976, Chapter 465;
Statutes of 1978, Chapters 775, 1173, 1174, and 1178;
Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter
994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165;
Statutes of 1990, Chapter 675

Reconsideration Directed by Government Code Section 3313
(Stats. 2005, ch. 72, § 6 (Assem. Bill (AB) No. 138), eff. July 19, 2005)

Peace Officers Procedural Bill of Rights

I. SUMMARY AND SOURCE OF THE MANDATE

In order to ensure stable employer-employee relations and effective law enforcement services, the Legislature enacted Government Code sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (POBOR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts¹ when a peace officer is subject to an interrogation by the employer, is facing punitive action or receives an adverse comment in his or her personnel file. The protections required by the test claim legislation apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at-will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission adopted its Statement of Decision that the test claim legislation constitutes a partial reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Statutes 2005, chapter 72, section 6 (AB138) added section 3313 to the Government Code to direct the Commission to "review" the POBOR Statement of Decision, adopted in 1999. Government Code section 3313 states the following:

In the 2005-06 fiscal year, the Commission on State Mandates shall review its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with California Supreme Court Decision in San Diego Unified School Dist. v. Commission on State Mandates (2004) 33Cal.4th 859 and other applicable court decisions. If the Commission on State Mandates revises its statement of decision regarding the Peace Officer Procedural Bill of Rights test claim, the revised decision shall apply to local government Peace Office Procedural Bill of Rights activities occurring after the date the revised decision is adopted.

On April 26, 2006, the Commission adopted the POBOR Reconsideration of Prior Statement of Decision with the conclusion as follows:

Staff finds that the San Diego Unified School Dist. case supports the Commission's 1999 Statement of Decision, which found that the POBOR legislation constitutes a state-mandated program within the meaning of article XIII B, section 6 of the California Constitution for counties, cities, school districts, and special districts identified in Government Code section 3301 that employ peace officers.

Staff further finds that the San Diego Unified School Dist. case supports the Commission's 1999 Statement of Decision that the test claim legislation constitutes a partial reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for all activities approved by the Commission except the following:

- *The activity of providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) pursuant to Government Code section 3304 is no longer a reimbursable state-mandated activity because the Legislature amended Government Code section 3304 in 1998 by limiting the right to an administrative appeal to only those peace officers "who successfully completed the probationary period that may be required" by the employing agency and to situations where the chief of police is removed. (Stats. 1998, ch. 786, § 1.)*
- *Pursuant to the San Diego Unified School Dist. case, the activities of obtaining the signature of the peace officer on the adverse comment or noting the officer's refusal to sign the adverse comment, pursuant to Government Code sections 3305 and 3306, when the adverse comment results in a punitive action protected by the due process clause² does not constitute a new program or higher level of service and does not impose costs mandated by the state pursuant to Government Code section 17556, subdivision (c).*

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, school districts and special districts that employ peace officers are eligible claimants.

III. PERIOD OF REIMBURSEMENT

At the time this test claim was filed, Section 17557 of the Government Code stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. On December 21, 1995, the City of Sacramento filed the test claim for this mandate. Therefore, costs incurred for Statutes of 1976, Chapter 465; Statutes of 1978, Chapters 775, 1173, 1174, and 1178; Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and Statutes of 1990, Chapter 675 are eligible for reimbursement on or after July 1, 1994.

As noted by the Commission in the Statement of Decision and original parameters and guidelines:

The Legislature amended Government Code section 3304 in 1998 by limiting the right to an administrative appeal to only those peace officers "who [have] successfully completed the probationary period that may be required" by the employing agency and to situations

where the chief of police is removed. (Stats. 1998, ch. 786, § 1.) Thus, as of January 1, 1999, providing the opportunity for an administrative appeal to probationary and at-will peace officers (except when the chief of police is removed) is no longer a reimbursable state-mandated activity.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d) (1) of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

Reimbursement of costs using either actual costs or a "reasonable reimbursement methodology" [RRM] as specified herein is permitted for the period beginning July 1, 2004.

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code 17564.

IV. REIMBURSABLE ACTIVITIES

For each eligible claimant, one of two methodologies may be selected for calculation of the reimbursement amount:

- *Costs may be claimed using a "reasonable reimbursement methodology" (RRM) pursuant to Government Code section 17518.5.*

Calculate the annual claim amount by multiplying the number of peace officers employed by a local agency on January 1 of the claim year by five hundred twenty eight (\$528) dollars. Subsequent fiscal year claims shall be adjusted by the implicit price deflator. The claim support will be payroll records identifying the individual officers, their position, hire date and job status.

- *Actual Cost Calculation: Actual costs are those costs incurred to implement the mandated activities. Actual costs must be traceable and supported by documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. Actual costs must be supported by data relevant to the subject reimbursable activities otherwise reported in compliance with local, state, and federal government requirements, if any. Where practical, a time study can be done in lieu of individual records. The time study must be approved by the State Controller's Office and would be in effect for a four-year period.*

For each eligible claimant, all direct and indirect costs of labor, supplies and services, training and travel for the performance of the following activities, are eligible for reimbursement:

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals, and other materials pertaining to the conduct of the mandated activities.

2. Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.
3. Updating the status of the POBOR cases.

B. Administrative Appeal

1. Reimbursement period of July 1, 1994 through December 31, 1998 – The administrative appeal activities listed below apply to permanent employees, at-will employees, and probationary employees.

Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction or written reprimand received by probationary and at-will employees whose liberty interest are not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- Transfer of permanent, probationary and at-will employees for purposes of punishment;
- Denial of promotion for permanent, probationary and at-will employees for reasons other than merit; and
- Other actions against permanent, probationary and at-will employees that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.

Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.

2. Reimbursement period beginning January 1, 1999 – The administrative appeal activities listed below apply to permanent employees and the Chief of Police.

Providing the opportunity for, and the conduct of an administrative appeal for the following disciplinary actions (Gov. Code, §3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- Transfer of permanent employees for purposes of punishment;

- Denial of promotion for permanent employees for reasons other than merit; and
- Other actions against permanent employees or the Chief of Police that result in disadvantage, harm, loss or hardship and impact the career opportunities of the employee.

Included in the foregoing are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.

C. Interrogations

Claimants are eligible for reimbursement for the performance of the activities listed in this section only when a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by the commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)

Claimants are not eligible for reimbursement for the activities listed in this section, when in the normal course of duty, interaction between a supervisor or public safety officer and a peace officer includes instruction, counseling or informal verbal admonishment. Claimants are also not eligible for reimbursement when the investigation is concerned solely and directly with alleged criminal activities. (Gov. Code, § 3303, subd. (i).)

1. *Conducting an interrogation of a peace officer while the officer is on duty, or compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures.* (Gov. Code, § 3303, subd. (a).)

Included in the foregoing is the investigating officer's preparation time for the interrogation. Preparation costs are reimbursable to a maximum of 20 hours with appropriate supporting documentation. Also included is the preparation and review of overtime compensation requests.

2. Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. (Gov. Code, § 3303, subds. (b) and (c).)

Included in the foregoing is the review of agency complaints or other documents to prepare the notice of interrogation; determination of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or confidential information; preparation of notice or agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.

3. *Recording* the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

Included in the foregoing is the cost of recording and storage, and the cost of transcription.

4. Providing the peace officer employee with access to the recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g));

- The further proceeding is not a disciplinary action;
- The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e., the charges supporting the dismissal does not harm the employee's reputation or ability to find future employment);
- The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

Included in the foregoing is the *copying cost of the recording*.

5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):

- When the investigation does not result in disciplinary action; and
- When the investigation results in:
 - A dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not affected (i.e. the charges supporting the dismissal do not harm the employee's reputation or ability to find future employment);
 - A transfer of a permanent, probationary or at-will employee for purposes of punishment;

- A denial of promotion for a permanent, probationary or at-will employee for reasons other than merit; or
- Other actions against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career of the employee.

Included in the foregoing *are the review of the complaints, notes or recordings* for issues of confidentiality by law enforcement, human relations or counsel; cost of processing, service and retention of copies.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment (Gov. Code, §§ 3305 and 3306):

School Districts

(a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then schools are entitled to reimbursement for:

- Obtaining the signature of the peace officer on the adverse comment; or
- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances

(b) If an adverse comment is obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:

- Providing *the peace officer* notice of the adverse comment;
- Providing *the peace officer* an opportunity to review and sign the adverse comment;
- Providing *the peace officer* an opportunity to respond to the adverse comment within 30 days; and
- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

(c) If an adverse comment is not obtained in connection with a promotional examination, then school districts are entitled to reimbursement for:

- Obtaining the signature of the peace officer on the adverse comment; or

- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

Counties

- (a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then counties are entitled to reimbursement for:
 - Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances
- (b) If an adverse comment is obtained in connection with a promotional examination, then counties are entitled to reimbursement for the following activities:
 - Providing *the peace officer* notice of the adverse comment;
 - Providing *the peace officer* an opportunity to review and sign the adverse comment;
 - Providing *the peace officer* an opportunity to respond to the adverse comment within 30 days; and
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
- (c) If an adverse comment is not obtained in connection with a promotional examination, then counties are entitled to reimbursement for:
 - Providing notice of the adverse comment; and
 - Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

Cities and Special Districts

- (a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then cities and special districts are entitled to reimbursement for:

- Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances
- (b) If an adverse comment is obtained in connection with a promotional examination, then cities and special districts are entitled to reimbursement for the following activities:
- Providing *the peace officer* notice of the adverse comment;
 - Providing *the peace officer* an opportunity to review and sign the adverse comment;
 - Providing *the peace officer* an opportunity to respond to the adverse comment within 30 days; and
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
- (c) If an adverse comment is not obtained in connection with a promotional examination, then cities and special districts are entitled to reimbursement for:
- Providing notice of the adverse comment;
 - Providing an opportunity to respond to the adverse comment within 30 days; and
 - Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

Included in the foregoing are review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.

V. CLAIM PREPARATION AND SUBMISSION

Claims for reimbursement must be timely filed and must identify each cost element for which reimbursement is claimed under this mandate.

Reasonable Reimbursement Method: Supporting documentation will be a payroll report or payroll records identifying the individual officers, their position, hire date and job status. For purposes of the reimbursement calculation, eligible officers will be those employees 'employed' by the county on January 1 (to include, but not limited to those on a leave of absence, vacation, disability leave).

Actual Cost Method: Claimed costs must be identified to each reimbursable activity identified in Section IV of this document. Time studies can be used to replace actual costs in some instances, but must be approved by the State Controller's Office prior to implementation. Claimed costs shall be supported by the following cost element information:

A. Direct Costs: Direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

- Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, the productive hourly rate, and related employee benefits.

Reimbursement includes compensation paid for salaries, wages, and employee benefits. Employee benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Employee benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

- Materials and Supplies

Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

- Contract Services

Provide the name(s) of the contractor(s) who performed the services, including any fixed contracts for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services. Submit contract consultant and attorney invoices with the claim.

- Travel

Travel expenses for mileage, per diem, lodging and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

- Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

All claims shall identify the number of cases in process at the beginning of the fiscal year, the number of new cases added during the fiscal year, the number of cases completed or closed during the fiscal year, and the number of cases in process at the end of the fiscal year.

VI. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.

However, if no funds are appropriated or no payment is made to the claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimant experiences as a direct result of the subject mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions to conform to the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and the California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

¹ Government Code section 3301 states: "For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision ©, 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code."

² Due process attaches when a permanent employee is dismissed, demoted, suspended, receives a reduction in salary, or receives a written reprimand. Due process also attaches when the charges supporting a dismissal of a probationary or at-will employee harms the employee's reputation and ability to find future employment and, thus, a name-clearing hearing is required.



May 24, 2006

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500
Facsimile
916.441.5507

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Room 300
Sacramento, CA 95814

RE: Request to Amend Parameters and Guidelines to Include
Recommended Reasonable Reimbursement Methodology
Peace Officer Procedural Bill of Rights
CSM 4499, 05-RL-4499-01

Dear Ms. Higashi,

The California State Association of Counties (CSAC) requests that the Commission on State Mandates amend the parameters and guidelines for the Peace Officer Procedural Bill of Rights using the following Reasonable Reimbursement Methodology (RRM):

Calculate the annual claim amount by multiplying the number of peace officers employed by a local agency on January 1 of the claim year by five hundred twenty eight (\$528) dollars beginning with the 2005-06 fiscal year. Subsequent fiscal year claim shall be adjusted by the implicit price deflator.

The 2005/2006 POBOR claims and any other future claims where payment is deferred in accordance with the State Constitution shall be paid no later than three years after the actual cost claims are filed.

Attached is a summary of the FY 2001-02 claims payment data that was used to develop this estimate of \$528 per officer. The numbers of sworn officers were based on the 2000 calendar year statistics obtained from the Peace Officers Standards and Training Commission.

The Association plans to file an official request to amend the parameters and guidelines in the very near future. In the meantime, we would be most pleased to discuss this with any interested party.

Sincerely,

A handwritten signature in black ink that reads "Steve Keil". The signature is written in a cursive, flowing style.

Steve Keil
Director, Legislative Services

PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
DATA ANALYSIS PER OFFICER

This analysis was compiled for the benefit of discussing a reasonable reimbursement methodology for the POBOR mandate reimbursement claim.

DATA SAMPLE

The data used for this analysis is based on a report obtained from the State Controller's Office (SCO) and on sworn officer statistics supplied by Peace Officers Standards and Training (POST). The report generated by the SCO includes the name of the claimants who filed POBOR for fiscal year 2001-2002, the amount each claimant filed, the number of POBOR cases in progress at the beginning of the fiscal year and the number of POBOR cases added during the fiscal year. This analysis considers both cases in progress and cases added during the fiscal year. The total number of sworn officers, based on POST's year 2000 online statistical report, was then matched with each claimant. Claimants who were missing either the number of cases or number of sworn officers were eliminated from the analysis.

Results

Sample: 184 claimants

Average dollar per officer: \$528.08

PER OFFICER

Claimant Name	Claimant I.D.	Claimant Amount	Total Sworn Officers 2000	Total Sample is 184. (In dollars Per Officer)
CATHEDRAL CITY	9833140	\$ 385,381.00	42	\$ 9,175.74
CITY & COUNTY OF SAN FRANCISCO	9838785	\$ 5,966,467.00	2227	\$ 2,679.15
CITY OF ALHAMBRA	9819005	\$ 24,032.00	89	\$ 270.02
CITY OF ANTIPOCH	9807021	\$ 18,768.00	102	\$ 184.00
CITY OF ARCATA	9812025	\$ 1,689.00	24	\$ 70.38
CITY OF ATASCADERO	9840032	\$ 8,130.00	29	\$ 280.34
CITY OF ATWATER	9824035	\$ 4,098.00	30	\$ 136.60
CITY OF AZUSA	9819041	\$ 2,580.00	59	\$ 43.73
CITY OF BARSTOW	9836053	\$ 16,746.00	44	\$ 380.59
CITY OF BELL	9819059	\$ 23,807.00	40	\$ 595.18
CITY OF BENICIA	9848074	\$ 8,285.00	38	\$ 218.03
CITY OF BERKELEY	9801077	\$ 30,601.00	201	\$ 152.24
CITY OF BREA	9830101	\$ 20,740.00	107	\$ 193.83
CITY OF BRENTWOOD	9807104	\$ 41,768.00	31	\$ 1,347.35
CITY OF BURLINGAME	9841116	\$ 3,344.00	47	\$ 71.15
CITY OF CARLSBAD	9837139	\$ 19,774.00	96	\$ 205.98
CITY OF CHICO	9804147	\$ 11,099.00	48	\$ 231.23
CITY OF CHINO	9836150	\$ 14,401.00	85	\$ 169.42
CITY OF CLAREMONT	9819159	\$ 12,181.00	41	\$ 297.10
CITY OF CLAYTON	9807162	\$ 7,292.00	10	\$ 729.20
CITY OF COLTON	9836183	\$ 58,743.00	66	\$ 890.05
CITY OF COLUSA	9806186	\$ 4,777.00	9	\$ 530.78
CITY OF COSTA MESA	9830213	\$ 79,262.00	154	\$ 514.69
CITY OF CULVER CITY	9819228	\$ 29,289.00	124	\$ 236.20
CITY OF DALY CITY	9841238	\$ 25,233.00	119	\$ 212.04
CITY OF DAVIS	9857240	\$ 21,194.00	54	\$ 392.48
CITY OF DIXON	9848252	\$ 8,993.00	21	\$ 428.24
CITY OF DOWNEY	9819258	\$ 58,953.00	111	\$ 531.11
CITY OF EAST PALO ALTO	9841263	\$ 8,024.00	47	\$ 170.72
CITY OF EL CAJON	9837264	\$ 37,854.00	142	\$ 266.58
CITY OF EL CERRITO	9807268	\$ 18,389.00	34	\$ 540.85
CITY OF EL SEGUNDO	9819272	\$ 8,265.00	69	\$ 119.78
CITY OF ESCONDIDO	9837282	\$ 37,559.00	159	\$ 236.22
CITY OF FAIRFIELD	9848292	\$ 74,336.00	105	\$ 707.96
CITY OF FONTANA	9836306	\$ 64,514.00	133	\$ 485.07
CITY OF FOSTER CITY	9841313	\$ 3,159.00	43	\$ 73.47
CITY OF FOUNTAIN VALLEY	9830314	\$ 2,391.00	65	\$ 36.78
CITY OF FRESNO	9810320	\$ 300,864.00	683	\$ 440.50
CITY OF FULLERTON	9830322	\$ 36,870.00	153	\$ 240.98

Claimant Name	Claimant I.D.	Claimant Amount	Total Sworn Officers 2000	Total Sample is 184. (In dollars Per Officer)
CITY OF GARDEN GROVE	9830328	\$ 70,698.00	159	\$ 444.64
CITY OF GILROY	9843330	\$ 23,142.00	58	\$ 399.00
CITY OF GLENDALE	9819332	\$ 40,496.00	230	\$ 176.07
CITY OF GLENDORA	9819334	\$ 29,728.00	55	\$ 540.51
CITY OF GRASS VALLEY	9829338	\$ 2,383.00	21	\$ 113.48
CITY OF GUSTINE	9824348	\$ 24,999.00	9	\$ 2,777.67
CITY OF HALF MOON BAY	9841350	\$ 976.00	17	\$ 57.41
CITY OF HANFORD	9816352	\$ 146,506.00	45	\$ 3,255.69
CITY OF HAYWARD	9801358	\$ 52,882.00	188	\$ 281.29
CITY OF HERMOSA BEACH	9819366	\$ 31,926.00	38	\$ 840.16
CITY OF HILLSBOROUGH	9841370	\$ 2,016.00	27	\$ 74.67
CITY OF HUNTINGTON BEACH	9830376	\$ 267,751.00	234	\$ 1,144.24
CITY OF HUNTINGTON PARK	9819378	\$ 583,837.00	71	\$ 8,223.06
CITY OF INGLEWOOD	9819390	\$ 464,855.00	206	\$ 2,256.58
CITY OF IRVINE	9830393	\$ 22,245.00	158	\$ 140.79
CITY OF KERMAN	9810400	\$ 16,905.00	17	\$ 994.41
CITY OF KING CITY	9827402	\$ 1,135.00	16	\$ 70.94
CITY OF LA VERNE	9819439	\$ 8,238.00	46	\$ 179.09
CITY OF LAGUNA BEACH	9830406	\$ 37,373.00	50	\$ 747.46
CITY OF LIVERMORE	9801460	\$ 19,194.00	85	\$ 225.81
CITY OF LIVINGSTON	9824463	\$ 695.00	18	\$ 38.61
CITY OF LOMPOC	9842472	\$ 6,307.00	48	\$ 131.40
CITY OF LONG BEACH	9819475	\$ 1,733,654.00	903	\$ 1,919.88
CITY OF LOS ANGELES	9819487	\$ 11,439,807.00	9341	\$ 1,224.69
CITY OF MANHATTAN BEACH	9819504	\$ 19,271.00	67	\$ 287.63
CITY OF MANTECA	9839506	\$ 6,052.00	58	\$ 104.34
CITY OF MARTINEZ	9807510	\$ 5,805.00	37	\$ 156.89
CITY OF MAYWOOD	9819515	\$ 5,386.00	28	\$ 192.36
CITY OF MENLO PARK	9841524	\$ 17,284.00	52	\$ 332.38
CITY OF MILL VALLEY	9821533	\$ 10,008.00	22	\$ 454.91
CITY OF MILPITAS	9843536	\$ 17,401.00	86	\$ 202.34
CITY OF MODESTO	9850539	\$ 346,749.00	259	\$ 1,338.80
CITY OF MONROVIA	9819542	\$ 13,729.00	64	\$ 214.52
CITY OF MONTCLAIR	9836548	\$ 11,532.00	51	\$ 226.12
CITY OF MONTEREY	9827557	\$ 43,909.00	62	\$ 708.21
CITY OF MOUNTAIN VIEW	9843569	\$ 109,449.00	102	\$ 1,073.03
CITY OF NATIONAL CITY	9837576	\$ 8,854.00	84	\$ 105.40
CITY OF NEWPORT BEACH	9830586	\$ 25,097.00	138	\$ 181.86
CITY OF NOVATO	9821592	\$ 22,579.00	61	\$ 370.15

Claimant Name	Claimant I.D.	Claimant Amount	Total Sworn Officers 2000	Total Sample is 184. (In dollars Per Officer)
CITY OF OAKLAND	9801596	\$ 1,078,857.00	747	\$ 1,444.25
CITY OF OCEANSIDE	9837598	\$ 163,150.00	162	\$ 1,007.10
CITY OF ONTARIO	9836602	\$ 4,850.00	222	\$ 21.85
CITY OF ORANGE	9830604	\$ 9,928.00	156	\$ 63.64
CITY OF OXNARD	9856612	\$ 46,374.00	200	\$ 231.87
CITY OF PACIFICA	9841614	\$ 5,159.00	40	\$ 128.98
CITY OF PALO ALTO	9843626	\$ 115,698.00	96	\$ 1,205.19
CITY OF PARADISE	9804630	\$ 6,079.00	24	\$ 253.29
CITY OF PARLIER	9810632	\$ 1,437.00	11	\$ 130.64
CITY OF PETALUMA	9849650	\$ 5,288.00	70	\$ 75.54
CITY OF PIEDMONT	9801656	\$ 1,881.00	20	\$ 94.05
CITY OF PINOLE	9807659	\$ 24,176.00	17	\$ 1,422.12
CITY OF PISMO BEACH	9840672	\$ 1,182.00	21	\$ 56.29
CITY OF PITTSBURG	9807675	\$ 47,262.00	74	\$ 638.68
CITY OF PLEASANT HILL	9807684	\$ 24,603.00	43	\$ 572.16
CITY OF PORT HUENEME	9856699	\$ 3,281.00	23	\$ 141.78
CITY OF PORTERVILLE	9854698	\$ 1,785.00	45	\$ 39.67
CITY OF RED BLUFF	9852710	\$ 2,901.00	27	\$ 107.44
CITY OF REDDING	9845712	\$ 20,992.00	107	\$ 196.19
CITY OF REDONDO BEACH	9819716	\$ 174,835.00	109	\$ 1,603.99
CITY OF REDWOOD CITY	9841718	\$ 5,237.00	99	\$ 52.90
CITY OF REEDLEY	9810720	\$ 4,508.00	24	\$ 187.83
CITY OF RIALTO	9836722	\$ 101,711.00	101	\$ 1,007.04
CITY OF RICHMOND	9807724	\$ 43,303.00	189	\$ 229.12
CITY OF RIO VISTA	9848730	\$ 691.00	11	\$ 62.82
CITY OF RIVERSIDE	9833736	\$ 252,869.00	335	\$ 754.83
CITY OF ROCKLIN	9831738	\$ 4,806.00	35	\$ 137.31
CITY OF ROSEVILLE	9831748	\$ 11,150.00	90	\$ 123.89
CITY OF SACRAMENTO	9834752	\$ 610,053.00	664	\$ 918.75
CITY OF SAN BERNARDINO	9836761	\$ 82,684.00	294	\$ 281.24
CITY OF SAN BRUNO	9841764	\$ 2,279.00	50	\$ 45.58
CITY OF SAN CARLOS	9841767	\$ 27,075.00	36	\$ 752.08
CITY OF SAN GABRIEL	9819788	\$ 15,428.00	55	\$ 280.51
CITY OF SAN JOSE	9843800	\$ 82,515.00	1342	\$ 61.49
CITY OF SAN LEANDRO	9801809	\$ 4,943.00	94	\$ 52.59
CITY OF SAN LUIS OBISPO	9840812	\$ 2,089.00	61	\$ 34.25
CITY OF SAN MARINO	9819818	\$ 43,704.00	28	\$ 1,560.86
CITY OF SAN MATEO	9841821	\$ 14,544.00	111	\$ 131.03
CITY OF SAN PABLO	9807824	\$ 11,224.00	42	\$ 267.24

Claimant Name	Claimant I.D.	Claimant Amount	Total Sworn Officers 2000	Total Sample is 184. (In dollars Per Officer)
CITY OF SAN RAFAEL	9821827	\$ 25,503.00	74	\$ 344.64
CITY OF SANTA ANA	9830830	\$ 44,016.00	404	\$ 108.95
CITY OF SANTA BARBARA	9842832	\$ 40,551.00	146	\$ 277.75
CITY OF SANTA CLARA	9843835	\$ 45,084.00	145	\$ 310.79
CITY OF SANTA MARIA	9842842	\$ 19,378.00	88	\$ 220.20
CITY OF SANTA MONICA	9819845	\$ 86,902.00	204	\$ 425.99
CITY OF SANTA ROSA	9849850	\$ 63,342.00	174	\$ 364.03
CITY OF SEASIDE	9827860	\$ 12,675.00	42	\$ 301.79
CITY OF SIERRA MADRE	9819870	\$ 54,218.00	17	\$ 3,189.29
CITY OF SIGNAL HILL	9819872	\$ 24,428.00	30	\$ 814.27
CITY OF SIMI VALLEY	9856873	\$ 71,244.00	116	\$ 614.17
CITY OF SOUTH GATE	9819885	\$ 14,843.00	93	\$ 159.60
CITY OF SOUTH PASADENA	9819887	\$ 1,446.00	34	\$ 42.53
CITY OF SOUTH SAN FRANCISCO	9841890	\$ 11,051.00	79	\$ 139.89
CITY OF ST HELENA	9828897	\$ 2,317.00	13	\$ 178.23
CITY OF STOCKTON	9839900	\$ 70,992.00	401	\$ 177.04
CITY OF SUNNYVALE	9843905	\$ 19,300.00	235	\$ 82.13
CITY OF SUTTER CREEK	9803910	\$ 449.00	6	\$ 74.83
CITY OF TORRANCE	9819924	\$ 99,857.00	248	\$ 402.65
CITY OF TRACY	9839926	\$ 19,272.00	62	\$ 310.84
CITY OF TURLOCK	9850934	\$ 21,260.00	62	\$ 342.90
CITY OF TUSTIN	9830936	\$ 51,872.00	92	\$ 563.83
CITY OF UNION CITY	9801940	\$ 9,118.00	78	\$ 116.90
CITY OF UPLAND	9836942	\$ 100,749.00	86	\$ 1,171.50
CITY OF VACAVILLE	9848944	\$ 16,614.00	102	\$ 162.88
CITY OF VALLEJO	9848946	\$ 47,791.00	147	\$ 325.11
CITY OF VERNON	9819950	\$ 6,884.00	57	\$ 120.77
CITY OF VISALIA	9854956	\$ 5,722.00	113	\$ 50.64
CITY OF WALNUT CREEK	9807962	\$ 31,569.00	80	\$ 394.61
CITY OF WATSONVILLE	9844966	\$ 5,950.00	64	\$ 92.97
CITY OF WESTMINSTER	9830972	\$ 18,797.00	105	\$ 179.02
CITY OF WHITTIER	9819978	\$ 15,952.00	130	\$ 122.71
CITY OF YUBA CITY	9851998	\$ 3,287.00	44	\$ 74.70
COUNTY OF ALAMEDA	9901	\$ 177,019.00	909	\$ 194.74
COUNTY OF CONTRA COSTA	9907	\$ 276,097.00	555	\$ 497.47
COUNTY OF DEL NORTE	9908	\$ 26,056.00	40	\$ 651.40
COUNTY OF EL DORADO	9909	\$ 7,218.00	168	\$ 42.96
COUNTY OF FRESNO	9910	\$ 194,438.00	415	\$ 468.53
COUNTY OF HUMBOLDT	9912	\$ 8,316.00	87	\$ 95.59

PER OFFICER

Claimant Name	Claimant I.D.	Claimant Amount	Total Sworn Officers 2000	Total Sample Is 184. (In dollars Per Officer)
COUNTY OF IMPERIAL	9913	\$ 25,944.00	83	\$ 312.58
COUNTY OF KINGS	9916	\$ 2,180.00	88	\$ 24.77
COUNTY OF LAKE	9917	\$ 16,426.00	72	\$ 228.14
COUNTY OF LOS ANGELES	9919	\$ 4,172,181.00	8778	\$ 475.30
COUNTY OF MONO	9926	\$ 7,087.00	26	\$ 272.58
COUNTY OF MONTEREY	9927	\$ 143,736.00	384	\$ 374.31
COUNTY OF NAPA	9928	\$ 41,020.00	85	\$ 482.59
COUNTY OF ORANGE	9930	\$ 508,494.00	1627	\$ 312.53
COUNTY OF PLACER	9931	\$ 29,924.00	223	\$ 134.19
COUNTY OF PLUMAS	9932	\$ 3,926.00	37	\$ 106.11
COUNTY OF RIVERSIDE	9933	\$ 774,303.00	1363	\$ 568.09
COUNTY OF SACRAMENTO	9934	\$ 490,819.00	1513	\$ 324.40
COUNTY OF SAN BERNARDINO	9936	\$ 271,467.00	1588	\$ 170.95
COUNTY OF SAN DIEGO	9937	\$ 551,042.00	2529	\$ 217.89
COUNTY OF SAN JOAQUIN	9939	\$ 55,196.00	379	\$ 145.64
COUNTY OF SAN LUIS OBISPO	9940	\$ 228,620.00	165	\$ 1,385.58
COUNTY OF SAN MATEO	9941	\$ 33,862.00	340	\$ 99.59
COUNTY OF SANTA CLARA	9943	\$ 152,000.00	572	\$ 265.73
COUNTY OF SHASTA	9945	\$ 11,995.00	179	\$ 67.01
COUNTY OF SISKIYOU	9947	\$ 138,174.00	56	\$ 2,467.39
COUNTY OF SOLANO	9948	\$ 28,689.00	117	\$ 245.21
COUNTY OF SONOMA	9949	\$ 72,519.00	245	\$ 296.00
COUNTY OF SUTTER	9951	\$ 9,349.00	64	\$ 146.08
COUNTY OF TEHAMA	9952	\$ 1,821.00	80	\$ 22.76
COUNTY OF TULARE	9954	\$ 167,580.00	596	\$ 281.17
COUNTY OF TUOLUMNE	9955	\$ 6,578.00	66	\$ 99.67
COUNTY OF VENTURA	9956	\$ 210,384.00	863	\$ 243.78
COUNTY OF YOLO	9957	\$ 10,094.00	84	\$ 120.17
TOTAL		\$ 36,168,183.00	52,914	\$ 97,167.31
AVERAGE PER OFFICER				\$ 528.08



STEVE WESTLY
California State Controller

May 5, 2005

Ms. Nancy Patton
Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES
PEACE OFFICERS PROCEDURAL BILL OF RIGHTS
STATUTES OF 1978, CHAPTERS 775, 1173, 1174, AND 1178;
STATUTES OF 1979, CHAPTER 405; STATUTES OF 1980, CHAPTER 1367;
STATUTES OF 1982, CHAPTER 994; STATUTES OF 1983, CHAPTER 964;
STATUTES OF 1989, CHAPTER 1165; AND STATUTES OF 1990, CHAPTER 675

Dear Ms. Patton:

We are submitting amendments to *Parameters and Guidelines* for the Peace Officers Procedural Bill of Rights mandate. The amendments are in response to the Bureau of State Audits' recommendation in its October 15, 2003, report titled "*State Mandates: The High Level of Questionable Costs Claimed Highlights the Need for Structural Reforms of the Process.*"

The recommended changes clarify reimbursable activities consistent with the adopted Statement of Decision and add the latest boiler-plate language.

If you have any questions, please contact Ginny Brummels, Section Manager, Local Reimbursements Bureau at (916) 324-0256, or Jim L. Spano, Chief, Compliance Audits Bureau, Division of Audits, at (916) 323-5849.

Sincerely,

A handwritten signature in black ink, reading "Vincent P. Brown", is written over the typed name.

VINCENT P. BROWN
Chief Operating Officer

Enclosure

cc: Interested Parties

MAILING ADDRESS P.O. Box 942850, Sacramento, CA 94250-5874
SACRAMENTO 300 Capitol Mall, Suite 518, Sacramento, CA 95814 (916) 324-8907
LOS ANGELES 600 Corporate Pointe, Suite 1000, Culver City, CA 90230 (310) 342-5656

ATTACHMENT B

COMMENTS ON PEACE OFFICERS PROCEDURAL BILL OF RIGHTS

Government Code Sections 3300 through 3310

As Added and Amended by Statutes of 1976, Chapter 465;
Statutes of 1978, Chapters 775, 1173, 1174, and 1178;
Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994;
Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and Statutes of 1990, Chapter 675

Peace Officers Procedural Bill of Rights

I. SUMMARY AND SOURCE OF THE MANDATE

In order to ensure stable employer-employee relations and effective law enforcement services, the Legislature enacted Government Code sections 3300 through 3310, known as the Peace Officers Procedural Bill of Rights (POBAR).

The test claim legislation provides procedural protections to peace officers employed by local agencies and school districts¹ when a peace officer is subject to an interrogation by the employer, is facing punitive action, or receives an adverse comment in his or her personnel file. The protections required by the test claim legislation apply to peace officers classified as permanent employees, peace officers who serve at the pleasure of the agency and are terminable without cause ("at-will" employees), and peace officers on probation who have not reached permanent status.

On November 30, 1999, the Commission adopted its Statement of Decision that the test claim legislation constitutes a partial reimbursable state mandated program within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

II. ELIGIBLE CLAIMANTS

Counties, cities, a city and county, school districts and special districts that employ peace officers are eligible claimants.

III. PERIOD OF REIMBURSEMENT

At the time this test claim was filed, section 17557 of the Government Code stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. On December 21, 1995, the City of Sacramento filed the test claim for this mandate. Therefore, costs incurred for Statutes of 1976, Chapter 465; Statutes of 1978, Chapters 775, 1173, 1174, and 1178; Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; and Statutes of 1990, Chapter 675, are eligible for reimbursement on or after July 1, 1994.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to section 17561, subdivision (d)(1), of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

¹Government Code section 3301 states: "For purposes of this chapter, the term public safety officer means all peace officers specified in Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34, 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5 of the Penal Code." If total costs for a given year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

For each eligible claimant, all direct and indirect costs for the performance of activities guaranteed by the due process clauses of the U.S. and the California constitutions are **not** reimbursable. California courts require employers to comply with due process when a permanent employee is dismissed, demoted, or suspended; receives a reduction in salary; or receives a written reprimand. For cases before discipline becomes effective, the following activities prescribed by the California Supreme Court in *Skelly* (*Skelly, supra, 15 Cal.3d 194*) are **not** reimbursable: notice of the proposed action; the reasons for the action; a copy of the charges and materials upon which the action is based; and the right to respond, either orally or in writing, to the authority initially imposing discipline.

For each eligible claimant, all direct and indirect costs of labor, supplies and services, training, and travel for the performance of the following activities are eligible for reimbursement.

A. Administrative Activities (On-going Activities)

1. Developing or updating internal policies, procedures, manuals, and other materials pertaining to the conduct of the mandated activities.
2. Attendance at specific training for human resources, law enforcement, and legal counsel regarding the requirements of the mandate.
3. Updating the status report of the POBOR cases. Updating means to track the procedural status of the reimbursable cases. Updating excludes all other activities such as, but not limited to, administrative activities performed by managerial staff, conducting investigations, issuing disciplinary actions, and maintaining files or file systems.

B. Administrative Appeal

1. Reimbursement period of July 1, 1994, through December 31, 1998 — The administrative appeal activities listed below apply to permanent employees, at-will employees, and probationary employees.

Providing the opportunity for, and the conduct of, an administrative appeal for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction, or written reprimand received by probationary and at-will employees whose liberty interest are not affected (i.e. the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);

- Transfer of permanent, probationary, and at-will employees for purposes of punishment;
- Denial of promotion for permanent, probationary, and at-will employees for reasons other than merit; and
- Other punitive actions such as, but not limited to, loan or temporary reassignment to another location or duty assignment against permanent, probationary, and at-will employees that result in disadvantage, harm, loss, or hardship and impact the career opportunities of the employee.

Included in the foregoing, only after an appeal is requested by permanent employees, at-will employees, and probationary employees, are: preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; time and labor of the administrative body and its attendant clerical services; preparation and service of any rulings or orders of the administrative body.

Claimants are not eligible for reimbursement for the costs of: peace officers who are not subject to an interview or interrogation; advocacy unit activities such as reviewing and writing prior to an administrative appeal; and outside counsel activities not listed above.

2. Reimbursement period beginning January 1, 1999 — The administrative appeal activities listed below apply to permanent employees and the Chief of Police.

Providing the opportunity for, and the conduct of, an administrative appeal for the following disciplinary actions (Gov. Code, § 3304, subd. (b)):

- Dismissal, demotion, suspension, salary reduction or written reprimand received by the Chief of Police whose liberty interest is not affected (i.e.: the charges supporting a dismissal do not harm the employee's reputation or ability to find future employment);
- Transfer of permanent employees for purposes of punishment;
- Denial of promotion for permanent employees for reasons other than merit; and
- Other punitive actions such as, but not limited to, loan or temporary reassignment to another location or duty assignment against permanent employees or the Chief of Police that result in disadvantage, harm, loss, or hardship and impact the career opportunities of the employee.

Included in the foregoing, only after an appeal is requested by permanent employees or the Chief of Police, are the preparation and review of the various documents to commence and proceed with the administrative hearing; legal review and assistance with the conduct of the administrative hearing; preparation and service of subpoenas, witness fees, and salaries of employee witnesses, including overtime; the time and labor of the administrative body and its attendant clerical services; the preparation and service of any rulings or orders of the administrative body.

Claimants are not eligible for reimbursement for the costs of: peace officers or the Chief of Police when the individual is not subject to an interview or interrogation; advocacy unit activities such as reviewing and writing prior to an administrative appeal; and outside counsel activities not listed above.

C. Interrogations

Reimbursement under this section is limited to the activities listed below surrounding the interrogation of a peace officer in connection with an investigation and does not include all activities related to the investigative process. The following investigative process activities are not reimbursable: starting the initial investigation; setting up the file; going to the scene of the alleged incident; identifying witnesses; collecting evidence related to the initial investigation; preparing interview questions of complainants, witnesses, and peace officers; interviewing complainants, civilian witnesses, and peace officers if the subject is a civilian; interviewing a peace officer on regular work hours; transcription and editing costs for interviews of complainant, civilian witnesses, and peace officers if the subject is a civilian; assembling the case file; preparing investigative summaries and disposition reports; and attending executive review or committee hearings related to the investigation.

Claimants are eligible for reimbursement for the performance of the activities listed in this section only when a peace officer is under investigation, or becomes a witness to an incident under investigation, and is subjected to an interrogation by due commanding officer, or any other member of the employing public safety department, that could lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)

Claimants are not eligible for reimbursement for the activities listed in this section when an interrogation of a peace officer is in due normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer. Claimants are also not eligible for reimbursement when the investigation is concerned solely and directly with alleged criminal activities. (Gov. Code, § 3303, subd. (i).)

1. When required by the seriousness of the investigation, compensating the peace officer for interrogations occurring during off-duty time in accordance with regular department procedures. (Gov. Code, § 3303, subd. (a).)

Included in the foregoing is the preparation and review of overtime compensation requests.

2. Providing prior notice to the peace officer regarding the nature of the interrogation and identification of the investigating officers. (Gov. Code, § 3303, subds. (b) and (c).)

Included in the foregoing ~~is~~ are the ~~review~~ time for reading of agency complaints or other documents to prepare the notice of interrogation; determination of the investigating officers; redaction of the agency complaint for names of the complainant or other accused parties or witnesses or confidential information; preparation of notice or agency complaint; review by counsel; and presentation of notice or agency complaint to peace officer.

3. ~~Tape R~~ecording the interrogation when the peace officer employee records the interrogation. (Gov. Code, § 3303, subd. (g).)

Included in the foregoing are the cost of tape recording and storage, and the cost of transcription.

4. Providing the peace officer employee with access to the tape recording prior to any further interrogation at a subsequent time, or if any further proceedings are contemplated and the further proceedings fall within the following categories (Gov. Code, § 3303, subd. (g)):
 - a) The further proceeding is not a disciplinary action;
 - b) The further proceeding is a dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest is not

affected (i.e., the charges supporting the dismissal ~~does~~ do not harm the employee's reputation or ability to find future employment);

- c) The further proceeding is a transfer of a permanent, probationary or at-will employee for purposes of punishment;
- d) The further proceeding is a denial of promotion for a permanent, probationary or at-will employee for reasons other than merit;
- e) The further proceeding is an action against a permanent, probationary or at-will employee that results in disadvantage, harm, loss or hardship and impacts the career of the employee.

Included in the foregoing is the copying cost of ~~tape~~ copying the recording.

Claimants are not eligible for reimbursement for the cost of transcribing any record of a peace officer's interrogation except when the peace officer ~~tape~~ recorded the interrogation.

- 5. Producing transcribed copies of any notes made by a stenographer at an interrogation, and copies of reports or complaints made by investigators or other persons, except those that are deemed confidential, when requested by the officer, in the following circumstances (Gov. Code, § 3303, subd. (g)):
 - a) When the investigation does not result in disciplinary action; and
 - b) When the investigation results in:
 - A dismissal, demotion, suspension, salary reduction or written reprimand received by a probationary or at-will employee whose liberty interest *is not* affected (i.e., the charges supporting the dismissal do not harm the employee's reputation or ability to find future employment);
 - A transfer of a permanent, probationary or at-will employee for purposes of punishment;
 - A denial of promotion for a permanent, probationary or at-will employee for reasons other than merit or
 - Other punitive actions such as, but not limited to, loan or temporary reassignment to another location or duty assignment against a permanent, probationary or at-will employee that result in disadvantage, harm, loss or hardship and impact the career of the employee.

Included in the foregoing ~~is~~ are the review of the complaints, notes or ~~tape~~ recordings for issues of confidentiality by law enforcement, human relations or counsel; cost of processing, service, and retention of copies.

D. Adverse Comment

Performing the following activities upon receipt of an adverse comment (Gov. Code, §§ 3305 and 3306):

School Districts

- (a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the

officer's reputation and opportunity to find future employment, then schools are entitled to reimbursement for:

- Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment is obtained in connection with a promotional examination, then school districts are entitled to reimbursement for the following activities:
- Providing the peace officer notice of the adverse comment;
 - Providing the peace officer an opportunity to review and sign the adverse comment;
 - Providing the peace officer an opportunity to respond to the adverse comment within 30 days; and
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
- (c) If an adverse comment is *not* obtained in connection with a promotional examination, then school districts are entitled to reimbursement for:
- Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

Counties

- (a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then ~~schools~~ counties are entitled to reimbursement for:
- Obtaining the signature of the peace officer on the adverse comment; or
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
- (b) If an adverse comment *is* related to the investigation of a possible criminal offense, then counties are entitled to reimbursement for the following activities:
- Providing the peace officer notice of the adverse comment;
 - Providing the peace officer an opportunity to review and sign the adverse comment;
 - Providing the peace officer an opportunity to respond to the adverse comment within 30 days; and
 - Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.
- (c) If an adverse comment is *not* related to the investigation of a possible criminal offense, then

counties obtained are entitled to reimbursement for:

- Providing the peace officer notice of the adverse comment; and
- Obtaining the signature of the peace officer on the adverse comment; or
- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

Cities and Special Districts

(a) If an adverse comment results in the deprivation of employment through dismissal, suspension, demotion, reduction in pay or written reprimand for a permanent peace officer, or harms the officer's reputation and opportunity to find future employment, then ~~schools~~ cities and special districts are entitled to reimbursement for:

- Obtaining the signature of the peace officer on the adverse comment; or
- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

(b) If an adverse comment is related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:

- Providing the peace officer notice of the adverse comment;
- Providing the peace officer an opportunity to review and sign the adverse comment;
- Providing the peace officer an opportunity to respond to the adverse comment within 30 days; and
- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

(c) If an adverse comment is *not* related to the investigation of a possible criminal offense, then cities and special districts are entitled to reimbursement for the following activities:

- Providing the peace officer notice of the adverse comment;
- Providing the peace officer an opportunity to respond to the adverse comment within 30 days; and
- Obtaining the signature of the peace officer on the adverse comment; or
- Noting the peace officer's refusal to sign the adverse comment on the document and obtaining the signature or initials of the peace officer under such circumstances.

Included in the foregoing are: review of circumstances or documentation leading to adverse comment by supervisor, command staff, human resources staff or counsel, including determination of whether same constitutes an adverse comment; preparation of comment and review for accuracy; notification and presentation of adverse comment to officer and notification concerning rights regarding same; review of response to adverse comment, attaching same to adverse comment and filing.

V. CLAIM PREPARATION AND SUBMISSION

Claims for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV. of this document.

SUPPORTING DOCUMENTATION

Claimed costs shall be supported by the following cost element information:

A. Direct Costs

Direct Costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

I. Salaries and Benefits

Identify the employee(s), and/or show the classification of the employee(s) involved. Describe the reimbursable activities performed and specify the actual time devoted to each reimbursable activity by each employee, the productive hourly rate, and related employee benefits. Indicate whether the activity is related to a criminal case. Identify the type of disciplinary action, type of employment (permanent, probationary, or at-will), date of appeal, reason for interrogation, date notice was given of pending interrogation, and date of notice of disciplinary action. Indicate whether the action affects the officer's reputation or future employment; results in disadvantage, harm, loss or hardship; or impacts the officer's career. If interrogation was recorded, indicate whether a copy of the record was provided to the officer. Indicate whether the officer's signature was obtained and subsequent interrogation was held. Identify what documents or reports were provided to the officer.

Reimbursement includes compensation paid for salaries, wages, and employee benefits. Employee benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Employee benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

2. Materials and Supplies

Only expenditures that can be identified as a direct cost of this mandate may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

3. Contract Services

Provide the name(s) of the contractor(s) who performed the services, including any fixed contracts for services. Describe the reimbursable activity(ies) performed by each named contractor and give the number of actual hours spent on the activities, if applicable. Show the inclusive dates when services were performed and itemize all costs for those services. Submit contract consultant and attorney invoices with the claim.

4. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for

reimbursement in accordance with the rules of the local jurisdiction.

Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

5. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

~~VI. SUPPORTING DATA~~

~~For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).~~

All claims shall identify the number of cases in process at the beginning of the fiscal year, the number of new cases added during the fiscal year, the number of cases completed or closed during the fiscal year, and the number of cases in process at the end of the fiscal year.

VI. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later.

However, if no funds are appropriated or no payment is made to the claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimant experiences in the same program as a ~~direct~~ result of the ~~subject~~ mandate same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instruction shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines adopted by the Commission, the Commission shall direct the Controller to modify the claiming instructions to conform to the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and the California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELIENS

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

~~VIII. -STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION~~

~~An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by due State contained herein.~~

AUDITOR/CONTROLLER-RECORDER COUNTY CLERK



COUNTY OF SAN BERNARDINO

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San Bernardino, CA 92415-0018 • (909) 387-8322 • Fax (909) 386-8830

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LARRY WALKER

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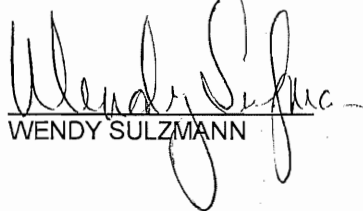
PROOF OF SERVICE

I, the undersigned, declare as follows:

I am employed by the County of San Bernardino, State of California. My business address is 222 W. Hospitality Lane, San Bernardino, CA 92415. I am 18 years of age or older.

On June 15, 2006, I faxed and mailed the letter dated June 15, 2006 to the Commission on State Mandates in response to the Peace Officers Procedural Bill of Rights (POBOR), Government Code Sections 3300 through 3310, As added and Amended by Statutes of 1976, Chapter 465; Statutes of 1978, Chapters 775, 1173, 1174, and 1178; Statutes of 1979, Chapter 405; Statutes of 1980, Chapter 1367; Statutes of 1982, Chapter 994; Statutes of 1983, Chapter 964; Statutes of 1989, Chapter 1165; Statutes of 1990, Chapter 675, Reconsideration directed by Government Code Section 3313, (Stats. 2005, ch. 72 § 6 (Assem. Bill (AB) No. 138), eff. July 19, 2005, faxed and/or mailed it also to the other parties listed on this mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 15, 2006 at San Bernardino, California.


WENDY SULZMANN

Commission on State Mandates

Original List Date: 5/26/2006

Mailing Information: Completeness Determination

Last Updated:

List Print Date: 06/01/2006

Mailing List

Claim Number: 05-PGA-18

Issue: Peace Officers Procedural Bill of Rights (POBOR)

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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